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The tribunate of the plebs as a magistracy of crisis

Appian's *Bella Civilia*, the most extensive continuous narrative of the end of the Roman Republic to have survived from the ancient world, depicts the tribunate of Tiberius Gracchus in 133 BCE as the beginning of the end. In the next fifty years, a string of successive crises caused by tribunes in the Gracchan mould prove the undoing of the Republican system. Appian's version of events is corroborated by Cicero, who also sees the tribunate as intrinsically linked to crisis. Appian is hampered by hindsight, leading to an overly schematic and teleological view of the end of the Republic. Nor should Cicero be taken at face value: his opinion of the tribunate was decisively slanted towards the negative by his personal experiences with Clodius. There were plenty of tribunes of the plebs during the last century of the Republic whose terms in office did not end with constitutional crisis and violent death.¹ Yet the way in which our sources construct the tribunate of the plebs as the key to the Republic's fall has become embedded in modern approaches to the 'crisis of the Roman Republic'.²

The tribunate and the fall of the Republic in later historians

My thanks go to all the participants in the Perm conference, and particularly to Peter Rhodes. I am grateful to Catherine Steel and Tom Shores for commenting on the written version; all flaws are my own.

¹The best introduction to modern research on the tribunate is E. Badian, 'Tribuni Plebis and Res Publica', in J. Linderski (ed.), *Imperium Sine Fine: T. Robert S. Broughton and the Roman Republic*, (Stuttgart: F. Steiner, 1996). J. Bleicken, *Das Volkstribunat der klassischen Republik: Studien zu seiner Entwicklung zwischen 287 und 133 v. Chr* (Munich: Beck, 1955) and L. Thommen, *Das Volkstribunat der späten römischen Republik* (Stuttgart: F. Steiner, 1989) are useful for matters of detail, but their overall approach is now dated; see L. Thommen, 'Populus, Plebs und Populares in der römischen Republik', in R. Faber and F. Unger (edd.), *Populismus in Geschichte und Gegenwart*, (Würzburg: Köningshausen & Neumann, 2008) for his reaction to more recent developments. G. Niccolini, *Il tribunato della plebe* (Milan: U. Hoepli, 1932), though even earlier, contains some valuable observations, and his *I fasti dei tribuni della plebe* (Milan: A. Giuffrè, 1934) is fundamental. E. J. Kondratieff, 'Popular Power in Action : Tribunes of the Plebs in the Later Republic' (2003), a University of Pennsylvania Ph.D. dissertation, contains expanded versions of Niccolini's lists and is worth consulting.

² Various versions of crisis theory are explored in the text that follows. For an overview, see R. Morstein-Marx and N. S. Rosenstein, 'The Transformation of the Republic', in N. S. Rosenstein and R. Morstein-Marx (edd.), *A Companion to the Roman Republic*, (Malden, MA: Blackwell, 2006). Some recent scholarly approaches can be found in the papers in K.-J. Hölkeskamp and E. Müller-Luckner, eds., *Eine politische Kultur (in) der Krise? Die "letzte Generation" der römischen Republik* (Munich: Oldenbourg, 2009).

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Florus (and so, we may suspect, Livy) says explicitly that the tribunate of the plebs caused the fall of the Republic:³

seditionum omnium causas tribunicia potestas excitavit, quae specie quidem plebis tuendae, cuius in auxilium comparata est, re autem dominationem sibi adquirens, studium populi ac favorem agrariis, frumentariis, iudiciariis legibus aucupabatur. (Florus ii.1)

The tribunician power aroused the beginnings of all the seditions. In theory it was supposed to help the plebs (it had been devised to help them), but in practice it sought domination for itself, accumulating the people's support and favour by laws on land distributions, grain doles, and jury service.

The placement of the passage, at the beginning of his second book, is significant. These reflections mark a major turning point in his narrative, the moment at which the history of Rome flipped from glory to disaster. He dates the change to 133 BCE: '*Primam certaminum facem Ti. Gracchus accendit*' – 'Tiberius Gracchus lit the first torch of the conflicts' (ii.2).

The general pattern of Florus' account is repeated elsewhere. Appian, too, begins his account with some remarks tying the disturbances of the late Republic to the earlier history of conflict between patricians and plebeians and the creation of the tribunate (*B Civ.* i.1), and then moves directly to the new beginning of civic strife in the tribunate of Tiberius Gracchus (i.2). Since his *Bella Civilia* is the fullest narrative account of the entire period that has come down to us, his choice to begin his story of the Republic's fall in 133 has helped fix in generations of students' minds the idea that the tribunate of Tiberius Gracchus was the beginning of the end.

Florus and Appian come from different historiographical traditions, but they have one thing in common: they treat Rome's internal and external affairs separately. Florus departs from his Livian

³ For Livy's attitude to the tribunate, see R. J. Seager, "'Populares" in Livy and the Livian Tradition', *CQ*² xxvii 1977, 384; in general on the question of Florus' relationship with Livy, L. Bessone, *La storia epitomata: introduzione a Floro* (Rome: 'L'Erma' di Bretschneider, 1996).

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model to discuss under separate headings Rome's just and glorious conquests and her impious civil strife (i.34); Appian's life's work is divided geographically, and the foreign wars of the period are narrated in their respective volumes. These two historians, therefore, bring out particularly clearly a pattern which can also be found in for example the Livan *Periochae*, Velleius, or Orosius, but which in those authors is complicated by shifts of focus to events taking place overseas. All tend to tell the story of internal politics at Rome between the 130s and the 80s in a way which foregrounds the tribunate as a cause of disruption and crisis. The pattern runs as follows: the disastrous events of the tribunes of both Gracchi were followed by the chaos brought on by Saturninus, and next the tribunate of Drusus the younger, which is positioned as the cause of the Social War. The Social War led into the conflict between Marius and Sulla – itself often told as a tribunician crisis, with blame assigned to Sulpicius – and from then on military conflicts between generals take centre stage in a new phase of decline.

Each tribunician conflict repeats and intensifies the one which came before. In Florus' summary of the period, he assimilates both Gracchi and Saturninus in his description of *Gracchanae prima et secunda et illa tertia Apuleiana seditio* – 'the first and second Gracchan, and the third Apuleian sedition', and then moves straight to Drusus (i.47). As he goes over the period in more detail in the second book, he structures his account of internal politics up to the Social War entirely in terms of seditious tribunes, devoting a section to Tiberius Gracchus, one to Gaius, one to Saturninus, and one to Drusus with little mention of any intervening events. The chapter headings inserted by a second hand in the ninth-century *Codex Bamburgensis*, our best surviving manuscript, even title these *Seditio Tiberi Gracchi* (ii.2), *Seditio C. Gracchi* (ii.3), *Seditio Apuleiana* (ii.4), and *Seditio Drusiana* (ii.5).

Appian goes into slightly more detail. After his discussion of Gaius Gracchus he includes one transitional paragraph (i.27) which reports agrarian legislation between 121 and 111 BCE. Yet the three measures reported there are explicitly given as the results of the Gracchan agrarian settlement,

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and really form part of the commentary on the events of 121. The next chapter devotes a single sentence to all other internal affairs of the intervening decades, noting that a consul Caepio pulled down a theatre, but then launches straight into the tribunates of Saturninus (i.28-33). Like Florus, Appian calls Saturninus' activity the third of three episodes of civil strife, after the two associated with the Gracchi (i.34). Without any intervening material, he then passes to the Social War, linking it prominently with Drusus' tribunate (i.35); as soon as the military narrative of the war is finished, he begins a new section with the machinations of Marius and Sulpicius (i.55).

In the fifty years or so between the Gracchi and Sulla, this version of events runs, the state lurched from tribunician crisis to tribunician crisis. Very little is said about any other internal political issues. The exclusive emphasis on tribunes dies away in the period between Sulla and Caesar, where the narrative is instead dominated by warlords and armies, and eventually outright civil wars, but the preceding narrative has already disposed the reader to understand that it was with the seditious tribunes of the earlier generation that the rot began.

Tribunes, conflict, and crisis in contemporary authors

The concept of the tribunate of the plebs as destructive is not simply an artefact of later historians' hindsight. In the *de Legibus*, Cicero puts into the mouth of his brother Quintus an extreme assessment of the tribunate: it is *in seditione et ad seditionem nata* – 'born in sedition and for sedition' (iii.19). Whether or not this was Cicero's own opinion is a question to which I shall return; for now, it is enough to note that it was a plausible point of view, ascribed in a contemporary text to an experienced politician.

The 'Quintus' of the dialogue is constructed as an implacable foe of the tribunate of the plebs. Yet his assessment has points of contact with another famous Republican (at least purportedly) view of the office from the other end of the political spectrum, that attributed to Tiberius Gracchus by Plutarch.

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Plutarch's Gracchus claims that obedience to the plebs is the most important duty of a tribune, more so than individual morality or patriotism: a tribune might attack the Capitol protected by his sacrosanctity, but he cannot disregard the will of the people (*Vit. Ti. Gracch.* 15.2-3).⁴ The setting is important: Gracchus is asking the people to remove Octavius from power after Octavius, urged on by the majority of the Senate, has vetoed Gracchus' land bill. In this context, when Gracchus says that the tribunes of the plebs must champion the power of the people, he means they must uphold the people's wishes even – perhaps especially – when those wishes conflict with the will of the elite. Cicero knew exactly what to call the behaviour of a politician who championed the people in disagreement with the elite: *seditio*.

When Cicero has cause to reflect on how Gracchus deposed Octavius, he tells his audience that it was achieved *per seditionem* (*Mur.* 78). A fragment from the *de Republica* gives a basic definition: *eaque dissensio civium, quod seorsum eunt alii ad alios, seditio dicitur* – 'And this disagreement among citizens, because they are divided from each other, is called sedition' (*Cic. Rep.* vi.1). Elsewhere, he condemns anyone who considers the interests of one part of the citizenry above another, saying that both populists and those who look only to the elite breed *seditio* and *discordia* (*Cic. Off.* 1.85). Given Cicero's attachment to *concordia*, it makes sense that in his works it is a small step from disagreement of any kind to conflict, and thence to sedition and disaster.

In his less philosophical moods, Cicero is less even-handed: the Republic is conceptually divided into a monolithic 'people' and a monolithic 'elite', and the particular blame in a case of *seditio* always falls on those who take the people's part against the elite. *Seditiose* is used almost as a synonym for *populariter* at *pro Cluentio* 93, and a little later he uses a virtuoso piece of accumulation to draw the

⁴ M. Sordi, 'La sacrosanctitas tribunicia e la sovranità popolare in un discorso di Tiberio Gracco', in M. Sordi (ed.), *Religione e politica nel mondo antico* (Milan: Vita e pensiero, 1981) argues that this remark derives eventually from an anti-Gracchan source reporting a question asked at Blossius' trial in 132 (*Plut. Vit. Ti. Gracch.* 20.3-4), but the wider context remains the same.

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same equivalence: *iniqua falsa turbulenta popularia seditiosa* – 'wicked, lying, disruptive, populist, and seditious' (*Clu.* 113). *Seditio* belongs with *discordia*, *factio*, and *partes* – but most of all with tribunes, who if hostile to Cicero and his ilk are labelled as *seditiosus* almost by default.⁵ The fullest statement of the theme is at *de Inventione* ii.51, when we hear that C. Flaminius as tribune proposed an agrarian bill *invito senatu et omnino contra voluntatem omnium optimatum per seditionem* – 'without the Senate's approval and entirely against the wishes of all the best men, by sedition'. As in the *pro Cluentio*, 'sedition' sums up rather than adds to the other charges: acting against the will of the elite (who are, naturally, united) is by definition seditious.

Both Plutarch's Gracchus and Cicero's 'Quintus' view disagreement or even conflict with the elite as characteristic of the tribunate of the plebs. In the majority of Ciceronian works, this feature makes the tribunate a magistracy of sedition, which is not too far from calling it a magistracy of crisis.⁶ But the full context of 'Quintus's' remark in the *de Legibus* has some surprises to offer. Above, I noted that the historical Quintus did not necessarily hold the views the character expresses: the work's dialogue form allows Cicero the author to put forward for the sake of argument a range of opinions with which he himself and the historical figures he uses as characters may or may not subscribe.⁷ Still, given the historical Cicero's political leanings it is astonishing that at this point in the dialogue the character 'Cicero' rejects the opinion 'Quintus' has advanced, arguing instead that although some tribunes have been pernicious the magistracy itself is not entirely bad.

⁵ *Discordia*: e.g. *Mur.* 83; *Sest.* 42, 99, 104; *Fin.* i.44. *Factio*: *Pis.* fr. 7. *Partes*: *Off.* 1.85; *Att.* x.1.2. Tribunes as *seditiosus*: e.g. *Clu.* 130; *Leg. Agr.* 2.14; *Vat.* 18; *Mil.* 8; *Brut.* 224; *Luc.* 144; *Fam.* ix.21.3. Further discussion can be found in R. J. Seager, 'Cicero and the Word *Popularis*', *CQ* 22 (1972), 337.

⁶ The tantalizing fragments of the *pro Cornelio* preserved by Asconius (77C) may originally have propounded a different view which comes closer to that of the character 'Cicero' in *de Legibus*. In the fragmentary speech, Cicero appears to defend the tribunate as a magistrate which can bring consensus, though this time with reference to its early history rather than its contemporary operation; see further C. J. Smith, 'The Origins of the Tribunate of the Plebs', *Antichthon* xlii 2012, 106. Tellingly, the speech dates from 66, well before Cicero's own run-ins with hostile tribunes.

⁷ On Cicero's use of dialogue form, see most recently J. W. Atkins, *Cicero on Politics and the Limits of Reason: The Republic and the Laws* (Cambridge: Cambridge U. P., 2013), esp. 8-9, 14-17, 157.

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At the point 'Quintus' speaks his piece, the fictional 'Cicero' has just introduced the tribunate of the plebs as a component of his proposed legal system and declared that this item needs no explanation (*Leg.* iii.19). As an author, however, Cicero clearly felt that explanation was required, since he then gives his interlocutor 'Quintus' one of the longest and most complex arguments made by either of the minor characters in the work (iii.19-22), and a lengthy discussion ensues (iii.23-6). 'Cicero' defends the tribunate, claiming that its function is to control the power of the people. The institution, he says, gives the people an outlet, but because each individual tribune fears for his own safety and reputation, he does not dare to pursue the excesses to which the people might aspire without his mediation (iii.23). He even flirts with the implication that the tribunate is tantamount to a way of deceiving the people: it allows them to *aequari se putarent* – 'think themselves equal' with their leaders (iii.24). Later, he concedes that the tribunate offers them real power, but follows his admission immediately with a qualification:

quam ob rem aut exigendi reges non fuerunt, aut plebi re, non uerbo, danda libertas. quae tamen sic data est, ut multis <instituti> praeclarissimis adduceretur, ut auctoritati principum cederet. (Cic. Leg. iii.25)

For this reason, either we should not have expelled the kings, or we must give the plebs liberty in reality, not only in theory. But it was given in such a way that it they are induced by many excellent arrangements to yield to the authority of the leading men.

The 'excellent arrangements' he refers to are the fact that the tribunes themselves are generally sensible members of the elite. In effect, the tribunes in the fictional 'Cicero's' scheme exist to transform the energy of public anger against the elite into disputes which take place within the elite and strictly on their terms. 'Quintus' has already pointed out one of the major flaws in this argument: the power given to tribunes is so great that even in the context of elite competition it could well be dangerous.

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In general, the argument Cicero gives to himself is not strong.⁸ In allowing 'Quintus' such an unusually long interjection he suggests that there is merit in his argument (an argument which was, of course, composed by Cicero himself). Though his alter ego argues against 'Quintus', Cicero the author goes out of his way to emphasise the divergence:

CICERO: *scis solere frater in huius modi sermone, ut transiri alio possit, dici 'admodum' aut 'prorsus ita est.'*

QUINTUS: *haud equidem adsentior. tu tamen ad reliqua pergas velim.*

CICERO: *perseveras tu quidem et in tua vetere sententia permanes.*

ATTICUS: *nec mehercule ego sane a Quinto nostro dissentio. sed ea quae restant audiamus.*

(Cic. *Leg.* iii.26)

CICERO: You know, brother, that in a conversation of this kind it is normal for you to say 'indeed', or 'yes, that's right', so that we can move on to the next topic.

QUINTUS: But I don't agree! Still, I want you to move on to the rest.

CICERO: So you persevere and you maintain your old opinion.

ATTICUS: By god, I don't disagree with our friend Quintus either. But let's hear the rest.

The two brothers never reach agreement, and 'Atticus' takes 'Quintus's' side. Finally, a joke about the characters' failure to abide by the conventions of the genre highlights this unique moment of disagreement in the reader's mind.

Cicero the author refuses to commit fully to 'Cicero' the character's arguments for the tribunate. He is determined not to depart from his conviction that the *mos maiorum* represents the best way to govern a state, and this includes the institution of the tribunate of the plebs: the final argument given in its

⁸ L. Thommen, 'Das Bild vom Volkstribunat in Ciceros Schrift über die Gesetze', *Chiron* xviii 1988 disagrees (though he accepts that 'Cicero's' version is hardly an adequate description of the tribunate of his own time), but the schema given by A. R. Dyck, *A Commentary on Cicero, De Legibus* (Ann Arbor, Mich.: University of Michigan Press, 2004), 493 demonstrates at minimum that however one judges 'Cicero's' positive arguments, he does not counter all of the points he gives to his brother.

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favour is that since it does exist it cannot be taken away (iii.26).⁹ However, the reservations which he expresses in 'Quintus's' speech are perhaps nearer to his own opinion as it emerges from his other works than is his own character's contrived defence of the tribunate. The argument the character 'Cicero' espouses, that the tribunate is a tool and function of the elite's dominance of Roman politics, is one which modern scholars have also proposed.¹⁰ They are right to discard the assumption of Appian and Florus that all tribunes were revolutionary firebrands out to wreck the Republic. But we should not leap to the opposite extreme and see all tribunes as passive *mancipia nobilium* – 'servants of the nobles' (Livy 10.37.11).¹¹ If we accept that the historical Cicero, a member of the elite supposedly perpetrating this great scam, was more worried about the radical potential of the tribunate than his fictional character will allow, the idea of the tribunes as props for an aristocratic regime immediately becomes harder to accept.

Conflict as a positive force

The disagreement between the two brothers is not the first time the tribunate of the plebs appears in the *de Legibus*. As he begins to treat magistracies in general, 'Cicero' declares that there cannot be a magistrate in Rome with sole power, since this would be kingship in all but name (iii.15). The first solution mentioned is not, as we might expect, the collegiate principle of the consulship, but the institution of the tribunate (iii.16). Opposition to the consuls is therefore the most important and necessary feature of the tribunes' role. They are the only magistrates who do not have to obey the

⁹ From a philosophical point of view, the debate centres on whether the ideal law code is the one which is the best in absolute terms, or whether it is right to make alterations to account for particular circumstances: Atkins (n.7, above), 211.

¹⁰ This is the general thrust of the analyses of both Bleicken and Thommen, *Volkstribunat* (n.1, above), for example, and indeed of C. Meier, *Res Publica Amissa* (Wiesbaden: Steiner, 1966) 116-51, who takes Cicero's metaphor even further to characterise all the popular institutions both before and after 133 as a 'Ventil' (128, 144-51); see also J. Bleicken, 'Das römische Volkstribunat. Versuch einer Analyse seiner politischen Funktion in republikanischer Zeit', *Chiron* xi 1981, though he proposes a strong distinction between the pre- and post-Gracchan tribunate; F. Pina Polo, 'Ideología y práctica política en la Roma tardorrepublicana', *Gerion* xii 1994, 84; R. Feig Vishnia, *State, Society and Popular Leaders in Mid-Republican Rome 241-167 BC* (London: Routledge, 1996), 190-201; L. Thommen, 'Populus, Plebs und Populares' (n.1, above), 36.

¹¹ Note that Livy himself never says this: the phrase is an insult placed in the mouth of a character upbraiding two tribunes for failing to live up to their responsibilities to the people.

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consuls, and they are required to support others, both magistrates and private citizens, in conflict with the consuls in order to make sure that kingship never returns to Rome.

Modern scholars have noted that the tribunes' power to oppose the consuls gave them in practice an important role in defusing, rather than provoking, conflict. They could break the deadlock between two consuls who were at odds, or act on behalf of the Senate to rein in a consul who had acted against the wishes of the elite.¹² Luciano Perelli notes that Cicero, by emphasizing how the tribunes can assist other magistrates against the consuls, locates the conflicts they provoke within the bounds of elite competition.¹³ Ultimately, in this interpretation, they provide a tool of conflict resolution, allowing the elite to resolve their differences and present a united front to the people. Certainly, we do see tribunes of all periods taking advantage of their hazily-defined powers to intervene in purely political squabbles affecting only the elite. But this is only part of the story: resistance by private citizens is also given a place in Cicero's account.

In the *de Legibus* Cicero finds himself torn between a view of the tribunate which sees conflict as an inherent part of the magistracy, and a more general approach to politics which views any kind of conflict as anathema. Rather than trying to find a place for disagreement in Rome's political system, his character tries to explain it away: the tribunate may seem to be a magistracy of *seditio*, but is in fact a carefully-balanced mechanism for making sure that the people do not disagree with their betters. Not all ancient commentators were so convinced that all conflict is crisis. For a different view on the role of conflict in Rome's political system, we can look to Polybius. Rome's tripartite constitution, as he describes it, consists of three nodes of power each pulling in different directions: consuls, Senate, and people. Their needs are different, but their powers are equally matched, meaning

¹² Bleicken, 'Das römische Volkstribunat', and Feig Vishnia (both n.10, above) catalogue such episodes.

¹³ L. Perelli, 'Note sul tribunato della plebe nella riflessione ciceroniana', *QS* x 1979, 287.

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that each group has to take the other two into account. Their conflicting interests lead not to disaster, but to compromise and stability.¹⁴

In Polybius' scheme, the tribunes of the plebs represent the people and must obey their wishes in all things (vi.16.5). He says they are not required to obey the consuls (vi.12.2), and can use the veto against the Senate (vi.16.4), a power he introduces in order explicitly to illustrate how it is that the Senate is compelled to listen to the wishes of the people (vi.16.1). Polybius' model does not imply that the tribunes will always create conflict, but he does presuppose that the people have their own needs and wishes which may not accord with those of the Senate or consuls, and he both requires that the tribunes stand for the people in any disagreement that ensues and highlights that they have been given an effective tool for doing so in the veto. The threat that disagreement will turn into conflict forces the three elements of the state to come to a compromise. Polybius imposes a theoretical structure in terms of antagonisms which does not necessarily match reality. But we should consider seriously his idea that conflict, or the threat of conflict, is not always a sign of crisis: it can also be a tool which prevents any one interest group from destabilizing the state.

The idea that conflict could be a positive force was foreign to Appian and Florus.¹⁵ They and others like them wrote under the Principate. Like us, they knew how the story ends, and their interpretations are explicitly teleological. Appian's introductory summary of the civil wars ends $\square\delta\epsilon\ \mu\ \square\kappa\ \sigma\tau\acute{\alpha}\sigma\epsilon\omega\nu\ \pi\omicron\iota\kappa\acute{\iota}\lambda\omega\nu\ \square\ \pi\omicron\lambda\iota\tau\epsilon\acute{\iota}\alpha\ \square\omega\mu\alpha\acute{\iota}\omicron\iota\varsigma\ \square\zeta\ \square\mu\acute{\omicron}\nu\omicron\iota\alpha\nu\ \kappa\alpha\ \square\ \mu\omicron\nu\alpha\rho\chi\acute{\iota}\alpha\nu\ \pi\epsilon\rho\acute{\iota}\epsilon\sigma\tau\eta$ – 'Thus out of a variety of civil conflicts the Roman state transformed into harmony and monarchy' (*B Civ.* i.6). His focus on volatility and conflict in the last century of the Republic is directly connected with the

¹⁴ Atkins (n.7, above), 80-115 demonstrates that Polybius' productive conflict represents a departure from Platonic and Aristotelian political theory; Cicero, in turn, reverts in his own account of the mixed constitution in *de Republica* to a Platonic model which sees conflict as a negative force.

¹⁵ It was not, of course, entirely foreign to Cicero: he records (*de Or.* ii.124) that his mentor Antonius, as part of his defence of a wayward tribune, had praised *sedition* as a vital tool used by the people to maintain their political power.

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coming of peace under the Principate.¹⁶ The contrast between Republican chaos and *Pax Augusta* is one of the strongest structural features to be found in historians writing in the imperial period.¹⁷

Because these authors see the shift from Republic to Principate as one from instability to stability, from crisis to resolution, they inevitably interpret both change and conflict as crisis.

Conflict, change, and crisis in modern scholarship

The crisis of the Roman Republic as constructed by modern historical research can be understood essentially as an institutional crisis. Even though the underlying problems which caused the change may have been economic, military, geopolitical, social, or even environmental, in the end the institutional question recurs: why did the institutions of the Roman Republic fail to solve these problems? Modern scholars have offered a range of answers, and there is no space here to do any more than sketch out two broad trends. Peter Brunt argued that the senatorial elite, which had eventual control over the entire political process, failed to listen to the people.¹⁸ The underlying causes of popular discontent are not my concern here, but an institutional problem also lies at the core of Brunt's interpretation: there was no political mechanism to force the elite to listen to the people. Christian Meier, on the other hand, proposed a different form of institutional failure in the form of institutional paralysis, the *Krise ohne Alternativ*.¹⁹ As he saw it, the system itself was incapable of change. Romans had internalized its values so successfully that it was impossible to conceive of anything else.

The role of the tribunate of the plebs in the last century of the Roman Republic provides an interesting test case for both influential modern theories. Brunt's explanation centres on the aristocracy's failure

¹⁶ Further discussion in E. Gabba, *Appiani Bellorum Civilium Liber Primus*³ (Florence: La Nuova Italia, 1958), xvi, xxi-ii.

¹⁷ Cassius Dio expands the insight into a full consideration of the relative benefits of democracy and monarchy at xliv.2 and the famous debate of book lii, with the historical contrast drawn most clearly at lii.16. Tacitus, unsurprisingly, turns the trope on its head by praising Republican *libertas* over imperial *tranquillitas*, but his first report of the views current upon Augustus' death at *Ann.* i.9 preserves the same sentiments.

¹⁸ P. A. Brunt, *The Fall of the Roman Republic and Related Essays* (Oxford: Clarendon Press, 1988).

¹⁹ Meier (n. 10, above).

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to heed the justified discontents of the people. Yet for Plutarch's Gracchus the tribune's role was precisely to follow the people's wishes, against those of the aristocracy if necessary; he must not neglect (καταλύει, Plut. *Vit. Ti. Gracch.* 15.3) the people. Meier focuses instead on the inherent conservatism of the system: its inability to produce alternative ideas which might bring institutional change.²⁰ Yet when Cicero's 'Quintus' attacks the tribunate, its power to effect both social and constitutional change is at the core of his complaint. The *seditio* in which it was born was the 'Struggle of the Orders', a period of almost total overhaul for Rome's political institutions, during which (as 'Quintus' points out, Cic. *Leg.* iii.19) the social order was inverted and power taken from the *patres*. The new *seditio* he fears is the potential that tribunes of his own day will achieve a similar upending of the social and political world he knows – perhaps even one radical enough to qualify as an *Alternativ*. The exact historical events which led to the introduction of the tribunate are not strictly relevant here; more important is the fact that Cicero and his fictionalized brother certainly believed that it was designed in order to effect radical change, was well suited to that role, and was ideologically linked with the popular will and reform. For them, the tribunate was a magistracy of change (the thing Meier finds lacking in the system) and of conflict, or at least of disagreement, in the sense that it could bring popular discontent to the attention of the aristocracy (the thing Brunt finds lacking in the system).

Even if we put to one side the canon of seditious tribunes after 133 who form the basis of Appian's and Florus' narratives but whom modern scholars may be inclined to treat as exceptions, the transformative power of the tribunate remains. When the pre-Gracchan elite made expedient use of the tribunes' wide-ranging and ill-defined powers to solve their own internal disputes, they did so

²⁰ In the hands of more recent German scholars such as K.-J. Hölkeskamp, *Rekonstruktionen einer Republik: Die politische Kultur des antiken Rom und die Forschung der letzten Jahrzehnte* (Munich: Oldenbourg, 2004), this becomes the inherently limited scope of Roman Republican political discourse. I have argued in A. Russell, 'Speech, Competition and Collaboration: Tribunician Politics and the Development of Popular Ideology', in C. Steel and H. van der Blom (edd.), *Community and Communication: Oratory and Politics in Republican Rome*, (Oxford: Oxford University Press, 2013) that the tribunate provided a mechanism for expanding the limits of political discourse.

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precisely because the system as it stood did not offer a suitable institutional method for resolving the problem. The tribunes stepped in, and the result was often that a new mechanism was invented, a new precedent was set, and the system as a whole gradually developed.²¹ Conflict produced change.

Change and conflict occupy a paradoxical position in crisis narratives. Cicero reads these functions of the tribunate as sedition, and we modern scholars might be tempted to read them in terms of crisis. But not all change, and not all conflict, is indicative of 'crisis' in the sense of disaster. In two of the most influential theories of the fall of the Roman Republic, those of Brunt and Meier, change and conflict were exactly what the system needed to save it.

Conclusion: consensus in hindsight

We can never escape hindsight: the Republic did fall. Nothing in the ancient sources I have cited can demonstrate that the tribunate of the plebs was actually successful in highlighting conflict or prompting needed change: perhaps it provided a mechanism, yes, but an ineffective one. Here Cicero's two competing explanations of the functions of the tribunate can provide useful analytic tools. If, with the character 'Cicero' in the *de Legibus*, we see the tribunate as a way of placating popular discontent, then the tribunate itself cannot be the cause of the crisis. Rather, it was the failure of this mechanism that led people to support violent, extra-legal attempts to solve their problems, from Catiline to Caesar. Brunt's view is vindicated: the system was not responsive enough to ordinary people's real needs.

I have suggested, however, that the historical Cicero's own anxieties are on display in the *de Legibus*. The problem he faced in his own political career was not that tribunes of the plebs failed to respond to popular discontent: in fact, some of them responded too readily for his liking and were happy to

²¹ Russell (n. 20, above); see also J. M. David, 'Conformisme et transgression: à propos du tribunat de plèbe à la fin de la République romaine', *Klio* lxxv 1993.

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exploit differences of opinion within the elite. 'Quintus's' theory, which mirrors more closely the attitude expressed in Cicero's other works, is that the tribunate was inherently seditious. Although tribunes themselves were members of the elite, their magistracy carried strong ideological overtones and some of them used it as a platform for what Cicero felt were attacks on the elite. For modern historians, these attacks could be understood as symptoms of the failure of Rome's political institutions, or perhaps more accurately Rome's political culture, the unwritten rules which governed political life. The unspoken limits to elite political competition, which had previously ensured that no popular leader fully exploited the sovereign power which Rome's laws and customs technically granted to the people, were being swept away. The 'senatorial consensus' was breaking down, with the result that Rome became ungovernable.

But is this supposed senatorial consensus itself an artefact of hindsight? The assumption that tribunes of the plebs before 133 BCE did not stand with the people against the Senate is only the flipside of the assertion we find in Appian and Florus that after 133 they did nothing else. Despite the fact that they contrast the Republic's chaotic end with the beneficent peace of Augustus' reign, historians writing in the imperial period also value Republican institutions. Their almost paradoxical reverence for the Republic, in the context of their general picture of the century before Augustus as unalloyed chaos, gives rise to a second structural contrast. The Late Republic is contrasted not just with the reign of Augustus, but with a perfectly-functioning classical Republic located hazily at some point in the second or third century BCE. Appian makes his adherence to this model clear in his insistence that Rome never saw civil strife before 133 (*B Civ.* i.2); Florus says that the hundred years before the fall of Carthage were a golden age (i.34; i.47).²² This was the classical Republic of Cicero's dreams, marked by high moral standards and guided gently but firmly by senatorial consensus. Yet when we try to locate this golden age, it continually retreats further and further into the past. We know the

²² On Appian's attitude to the Republic see further A. Gowing, *The Triumviral Narratives of Appian and Cassius Dio* (Ann Arbor: University of Michigan Press, 1992), 47-8.

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Gracchi had forerunners, and the idea that the Middle Republic was a time of perfect *concordia* (meaning, among other things, that tribunes obeyed the will of the united Senate) is partly an artefact of the state of our sources for the period.²³ Livy has very different preoccupations from Sallust or Cicero, and is less interested in recording tribunician activity.²⁴ When the issue of evidence is combined with the teleological impulses of Appian and Florus and their understandable desire to locate a single well-defined moment at which the crisis of the Roman Republic began, it is easy to see why 133 BCE has become a watershed for both ancient and modern commentators.

Tiberius Gracchus, the man whom Appian and Florus credit with destroying Republican Rome's golden age of *concordia*, did not claim to be going beyond the bounds of either Republican political institutions or Republican political culture. His self-presentation, at least in Plutarch's version, presumes that the tribune's role as antagonist to the elite is not a symptom of institutional breakdown, but is itself one of Rome's institutions.²⁵ Gracchus' actions fit well into the Polybian model of stability through tension – a model developed, it is worth noting, before 133 BCE – in which checks and balances formed not by consensus but by institutionalized conflict are the source of the Republic's strength.²⁶

Contemporary observers, including Polybius, Gracchus, and Cicero, all saw the tribunate of the plebs as a magistracy of change and conflict. Later historians pigeonholed its transformative power into a (relatively) brief period which they understood as the final crisis leading up to the collapse of one system and the birth of another. It is this temporal limitation which should be discarded as the product

²³ L. R. Taylor, 'Forerunners of the Gracchi', *JRS* lii 1962; E. Badian, 'Tiberius Gracchus and the Beginning of the Roman Revolution', *ANRW* i.1 (1972) 695-6 has some perceptive remarks on what can and cannot be known about the activities of tribunes in the century before the Gracchi.

²⁴ Badian (n.1, above), 187-90; P. Williams, 'The Roman Tribunate in the So-Called 'Era of Quiescence', 287-133 BC', *Latomus* lxiii 2004.

²⁵ We are reminded of the view that it was Octavius' veto, not Gracchus' *rogatio*, which was the decisive break with tradition: Badian (n.23, above).

²⁶ For an excellent restatement of the importance of tension and division in the Roman Republic, see A. Yakobson, 'The People's Voice and the Speakers' Platform: Popular Power, Persuasion and Manipulation in the Roman Forum', *SCI* xxiii 2004.

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of teleology and hindsight. The tribunate's potential to bring conflict into Rome's political arena, whether for good or for bad, was not a challenge to Rome's political culture but a part of it – both before and after 133 BCE. None of the above can shed much light on the question of what the average tribune of the plebs actually did and why, whether the tribunate was in the end a stabilizing or a destabilizing force in the Republic, or whether tribunes after 133 used their powers in ways which were qualitatively different from what their pre-Gracchan forerunners had done (though on this last point I am skeptical). Nor are there any easy answers as to which explanation of the Republic's fall is the correct one. But considering the roles assigned by various ancient observers to the tribunate in the crisis of the Roman Republic does help clarify what is at stake in the definitions of 'crisis' assumed by models both ancient and modern.

Change and conflict were, in the form of the tribunate, an institutionalized part of Rome's political system. Disagreement, much to Cicero's chagrin, was never lacking.²⁷ We cannot therefore use change or conflict to diagnose crisis, as Appian and Florus do – or we must admit that Republican Rome was in a constant state of crisis from the very beginning, which is tantamount to saying that it never was.²⁸ The modern interpretations I have summarized, on the other hand, suggest that it was the absence of change and conflict which doomed the Republic. A reassessment of the tribunes' role in the light of these modern debates can help us escape the pessimistic, Ciceronian model of the tribunate later taken on and developed by Appian and Florus. If change and conflict were not signs of crisis, but instead signs of Polybian vitality even in a decaying system, we should see the tribunes Cicero calls seditious not as symptoms of institutional failure, but as successes. Their contribution to the crisis of the Roman Republic was of a different kind: they did not go far enough.

²⁷ R. Morstein-Marx, *Mass Oratory and Political Power in the Late Roman Republic* (Cambridge: Cambridge University Press, 2004), 283 writes, 'When, after 133, was the Roman élite *not* divided?' – but surely it was no more united in the era of the trials of the Scipios?

²⁸ If we take this route, the tribunate as I see it fits more comfortably into the view of the Late Republic propounded by E. S. Gruen, *The Last Generation of the Roman Republic* (Berkeley; London: University of California Press, 1974), who denies that there ever was a crisis – though the stability I see in the system comes from flexibility and a degree of popular control, rather than the elite dominance he envisages.